

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

UNITED STATES OF AMERICA)	
)	
v.)	Case No. 3:19cr130
)	
OKELLO T. CHATRIE,)	
Defendant)	

**DEFENDANT’S NOTICE OF SATISFACTION
OF REQUESTS IN GEOFENCE DISCOVERY MOTION**

Okello Chatrie, through counsel, notifies the Court that the affidavits that Google filed in response, *see* ECF No. 96, to Mr. Chatrie’s subpoena duces tecum in ECF No. 86, and additional information received from the government up through today satisfy the discovery requests in ECF No. 28. Specifically, the affidavits that Google filed in response to the subpoena satisfy the requests in the discovery motion that require the Court to analyze whether Google is a part of the prosecution team under Federal Rule of Criminal Procedure 16 and the due process clause of the Fifth Amendment. The Court can conclude that the affidavits from Google satisfy the following discovery requests from the geofence discovery motion in ECF No. 28: 1 (relating to WiFi access points), 3 (relating to “Sensorvault” details), 4 (relating to “Sensorvault” parameters), and 9 (relating to data that Google found potentially responsive to geofence warrant). The government has provided additional information that satisfies the following additional discovery requests in ECF No. 28: 8, 10, 11(c), 11(d), 11(e), and 12. Thus, the Court can deny as moot the requests made in ECF No. 28.

The parties also have conferred and request that the Court schedule a date for the evidentiary hearing for the geofence motion to suppress. Given Chief Judge Davis’s General Order

No. 2020-12 issued today, which suspends “all non-critical and non-emergency in-person proceedings in our Courthouses through June 10, 2020,” the defense requests that this hearing be set in June 2020 after in-person court proceedings resume. *See In re: Court Operations under the Exigent Circumstances Created by the Outbreak of Coronavirus Disease 2019*, 2:20mc7 (E.D. Va. Apr. 10, 2020). Should, of course, the current Covid-19 pandemic not abate to make such a proceeding, which will require out-of-state travel for a member of the defense team and a defense expert, safe to hold by that time, the Court can re-assess that date as the need arises. But, at this point, courts in New York are beginning to schedule hearings for May 2020 and both Governor Northam and Chief Judge Davis currently anticipate the end date of Virginia’s stay-home order to be June 10, 2020, *id.* at 2. The government has indicated that one of its witnesses anticipates a scheduling conflict from July 14 through July 17, 2020.

Given the amount of information that the defense has learned through the discovery and investigative process to this point, Mr. Chatrue requests an opportunity to supplement his geofence motion to suppress in the intervening timeframe to aid the Court’s understanding of how this information relates to the legal issues that the geofence motion to suppress in ECF No. 29 raises. The defense anticipates being able to make good use of the delay in this case due to the Covid-19 pandemic to help focus and integrate this new information for the Court before the evidentiary hearing to assist in a timely resolution of the geofence motion to suppress after the evidentiary hearing. The government, without further explanation, has indicated that it objects to further briefing at this point. Despite this objection, the defense maintains that an opportunity to supplement the geofence motion to suppress to integrate the information it has uncovered since filing the original motion to suppress nearly six months ago will help focus the arguments originally raised in the motion, assist the Court in preparing for the evidentiary hearing, and

expedite the resolution of the geofence motion to suppress. The defense suggests May 15, 2020, as the filing deadline for this supplement.

Thus, the Court can deny as moot the discovery requests in ECF No. 28. The defense requests that the Court schedule a date for the evidentiary hearing on the geofence motion to suppress evidence in June 2020 after in-person court proceedings resume. The defense also requests permission to supplement its original geofence motion to suppress to integrate the information obtained through the discovery and investigative process, which will help focus the legal arguments at issue and aid the Court in preparing for the evidentiary hearing as well as the resolution of the motion.

Respectfully submitted,
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